

EXHIBIT C

CONDENSED TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BEY DILEMANI
52 Brinker Drive
Doylestown, PA

Plaintiff

V

Civil Action
No. 02-CV-2614

BUCA, INC.
1300 Niccollet Mall
Suite 5003
Minneapolis, MN 55403

Defendant

Oral deposition of JAMES M.
COWLER, taken at the LAW OFFICES OF
MICHAEL J. SALMANSON, P.C., 1515
Locust Street, 10th Floor,
Philadelphia, Pennsylvania, beginning
at 10:28 a.m., on Thursday, January
9, 2003, before Carmen A. Santone,
Court Reporter, pursuant to notice.



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ORAL DEPOSITION OF JAMES M. COWLER, 1/9/03

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 10 EXAMINATION INDEX
 11 JAMES M. COWLER
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 14 EXHIBIT INDEX
 15 MARKED
 16 PLAINTIFFS
 34 One-page document 222
 17 entitled Interview
 Evaluation Sheet
 18
 35 Eight-page composite with 260
 19 5/4/01 letter to PHRC
 from Mr. Gerhan as its
 20 cover
 21
 22
 23
 24

3

1 (It is agreed by and
 2 between counsel that all objections,
 3 except as to the form of the
 4 question, are reserved until the time
 5 of trial.)
 6 JAMES M. COWLER, having
 7 been duly sworn, was examined and
 8 testified as follows:
 9 EXAMINATION
 10 BY MR. GOLDBERG:
 11 Q. Mr. Cowler, my name is
 12 Scott Goldberg. I'm an attorney
 13 representing Bey Dilemani, seated to
 14 my right, in a lawsuit he has brought
 15 against Buca, Inc., based on Buca,
 16 Inc.'s decision not to hire him as a
 17 paisano partner.
 18 Please state your name and
 19 address and date of birth for the
 20 record?
 21 A. Jim Cowler. Address is 153
 22 Pleasant View, McMurray,
 23 Pennsylvania, 15317. Date of birth
 24 9/21/56.

4

1 Q. Is Jim your --
 2 A. James M. I'm sorry.
 3 Q. Okay. Have you ever been
 4 deposed before?
 5 A. No, I don't believe so.
 6 Q. Good. This way I get to
 7 give you instructions without
 8 worrying what everyone else has told
 9 you.
 10 A. Right.
 11 Q. As you know, everything we
 12 say is being recorded by a court
 13 reporter, seated to your right. I'm
 14 going to be asking you questions and
 15 you're required to answer under
 16 oath. Do you understand that?
 17 A. Absolutely, yes.
 18 Q. One of the important
 19 instructions is that you're going to
 20 need to make sure that all of your
 21 answers are verbal, because the court
 22 reporter cannot record things such as
 23 grunts or nods of the head.
 24 A. Okay.

5

1 Q. If you don't understand a
 2 question I'm asking for any reason,
 3 please call that to my attention.
 4 Okay?
 5 A. Okay.
 6 Q. If you provide an answer to
 7 my question, I'm going to move on and
 8 assume that you understood my
 9 question. Fair enough?
 10 A. Fair enough.
 11 Q. Do you understand that the
 12 testimony you're giving here today,
 13 although it's not in a courtroom, has
 14 the same affect as testimony in a
 15 courtroom for purposes of your oath?
 16 A. Yes, I do.
 17 Q. Is there any reason that
 18 you cannot give complete and truthful
 19 answers to my questions here today?
 20 A. There is no reason why I
 21 cannot answer you truthfully.
 22 Q. And completely?
 23 A. Completely.
 24 Q. You're not under the



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<p style="text-align: center;">118</p> <p>1 partner. Buffalo, Cleveland, 2 Columbus, Pittsburgh -- I'm trying to 3 think back. I don't know -- I 4 think -- I don't know. 5 There might be a couple 6 others, you know, that I might have 7 hired like three years ago, no longer 8 with us, that kind of stuff. Like 9 David Ortiz would be a good example; 10 he was only with us for like two 11 months, three months. 12 Q. Okay. If during the course 13 of this deposition you recall the 14 names of any other paisano partner 15 that you played a role in hiring, 16 would you call that to my attention? 17 A. Absolutely. 18 Q. Why did you hire James 19 Morris? 20 A. Jim Morris? 21 Q. Yes. 22 A. Owned his own restaurant 23 for 15 years. Outstanding image from 24 a respectability point of view, from</p>	<p style="text-align: center;">120</p> <p>1 position? 2 A. They were either ruled in 3 or out during the interview process. 4 Q. By you? 5 A. By me. 6 Q. Would you schedule an 7 interview for someone without any 8 basis for believing they may be a 9 good candidate for the position? 10 A. Could you restate that just 11 so I can give you a yes or no. 12 Q. For each of the people you 13 interviewed, did you review a resume? 14 A. I get copied on a resume, 15 yes. I guess to answer your 16 question, I would not interview 17 somebody for the sake of interviewing 18 somebody. 19 Q. And as a corollary, if 20 during the course of an interview it 21 became clear in your mind that, for 22 example, one of the other people 23 vying for the Albany position was not 24 a good candidate, would you terminate</p>
<p style="text-align: center;">119</p> <p>1 a presentation point of view. 2 Outstanding communication skills. 3 Unbelievable understanding of the 4 market. Community involvement in the 5 chamber of commerce, the New York 6 Restaurant Association. The various 7 Boys Club, Girls Clubs, sports, 8 swimming. A very involved man. 9 Q. Were there any other 10 applicants for the paisano partner 11 position for which James Morris was 12 hired? 13 A. I'm sure there were. I'm 14 sure I interviewed five, six, seven 15 people. 16 Q. You personally considered 17 five or six people in the interview 18 process? 19 A. Considered? 20 Q. Yes. 21 A. I only considered one. 22 That was Jim Morris. 23 Q. You interviewed people 24 without considering them for the</p>	<p style="text-align: center;">121</p> <p>1 the interview? 2 A. I believe in a certain 3 amount of courtesy extended to 4 somebody. I also believe you have to 5 discount a lot of times the first ten 6 minutes of an interview, because some 7 people are nervous, they've never 8 interviewed before. 9 I think you have to make 10 that decision in the first ten 11 minutes of the comfort zone of what 12 an -- so many people don't know how 13 to interview and they get all freaked 14 out and they don't know -- they just 15 don't -- you've got to relax them. 16 Some people come in with an 17 agenda. You have to take people one 18 step at a time in an interview 19 process. I've had interviews go 20 three hours, I've had interviews go 21 20, 30 minutes. 22 Q. What's typical? 23 A. Typical? Average? My 24 average paisano interview is probably</p>



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1 between an hour and an hour and a
2 half, closer to an hour and a half.

3 Q. What would lead an
4 interview to last closer to three
5 hours?

6 A. My liking what I hear and
7 who I'm talking to from a -- fitting
8 the qualifications of what I'm
9 looking for. More in-depth. It's
10 the more in-depth. It's the
11 secondary, the deeper questions, and
12 the revisiting of other questions.

13 Q. What would lead an
14 interview to last for only 20 or 30
15 minutes for a paisano partner?

16 A. Misrepresentation,
17 arrogance, lack of humility, an
18 aggressiveness that I don't think
19 fits with our company. Maybe a skill
20 set that wasn't -- that is clearly
21 not there.

22 Q. In those situations, how
23 would you keep the interview to 20 or
24 30 minutes?

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1 rarely do I say, I'm sorry, this is
2 not going to work out.

3 Q. Why did you hire Vincent
4 Vesci?

5 A. I'm laughing because you'd
6 have to know Vince. Vince probably
7 understands our concept more than
8 most. Based on his life experience
9 and background; Sons of Italy,
10 president of the bowling league,
11 owned his own business, raised in
12 Norristown, member of the church. He
13 is embedded in the community.

14 He understands what it's
15 like to be an owner. He was a
16 general manager of a high-volume,
17 fast-paced restaurant company called
18 Houlihan's, and I appreciated his
19 ownership skills, I appreciated his
20 general manager skills.

21 He was -- you could cut
22 butter with his shirt sleeve. I
23 mean, he's a guy that takes personal
24 pride in everything he does, and you

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1 A. Well, it's like anything
2 else. You manage the situation. You
3 cut it close. You don't -- you see
4 if they've got any open-ended
5 questions about the concept, about
6 the position.

7 I basically stop asking
8 questions and see if they have
9 questions for the interview, and I
10 answer all those questions and I
11 shake their hand and thank them for
12 their time.

13 Q. Do you ever tell someone
14 during an interview, I'm sorry, it's
15 not going to work out?

16 A. I've only done that -- not
17 necessarily done that with a paisano
18 partner, but somebody who might be
19 interviewing for a paisano partner
20 who is clearly an assistant level or
21 an entry level person, where I want
22 to give them advice from, you know,
23 You should probably do this first,
24 then come back and see us. But very

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1 could see that in interview and you
2 could see it in his restaurant. I'm
3 a firm believer that if you -- that
4 the paisano partner reflects the
5 restaurant.

6 Q. Were there other applicants
7 for the East Norriton position for
8 which Vince Vesci was hired as a
9 paisano partner?

10 A. Yes, yes.

11 Q. Do you recall how many?

12 A. No.

13 Q. Do you recall how many
14 people you interviewed for that
15 position?

16 A. No. I -- you know, on an
17 average, I would say we interviewed
18 between -- I interview -- not through
19 recruiters, but I interview between
20 five and seven.

21 Q. When you use the term
22 "interview" in that sense, are you
23 referring to an in-person interview,
24 a telephone --

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1 and above?
 2 A. Any more? We got Cheryl.
 3 If I think of any, I'll let you know.
 4 That's what I can think of right now.
 5 Q. Okay. Please provide your
 6 best estimate for Alison Hoffman's
 7 age.
 8 A. 38, 39.
 9 Q. Amy Bonner?
 10 A. Early 30s.
 11 Q. Tony Avsakdi?
 12 A. I'd say Tony's 38, 39.
 13 Q. John Little?
 14 A. 37, 38, right in that area.
 15 Q. Cheryl...
 16 A. Dometrovec.
 17 Q. Dometrovec.
 18 A. What is Cheryl? Cheryl
 19 would probably be in her late 30s.
 20 And Jeanie just turned 40, I believe.
 21 Q. Please tell me your
 22 understanding of the recruiting
 23 process for paisano partners during
 24 the year 2000?

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1 A. My understanding of how the
 2 process works?
 3 Q. Yes, from start to finish.
 4 A. Start to finish. We
 5 determine a time line of hiring, when
 6 we're going to need to hire people,
 7 source and hire people.
 8 Q. And who makes that
 9 decision?
 10 A. Usually the recruiters come
 11 up with those time lines once we've
 12 established the opening date for the
 13 restaurant. That's for a brand new
 14 restaurant.
 15 For an existing restaurant,
 16 you know, obviously when the -- if
 17 there is an opening due to a
 18 promotion, you know, a lateral move
 19 to another market or a loss of a
 20 partner, that process, as far as
 21 sourcing and hiring, starts
 22 immediately.
 23 Q. Okay.
 24 A. So we have a sourcing and

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1 hiring -- or, sourcing period in
 2 which -- and the people involved back
 3 then, I believe, were Lucy Lea, who
 4 basically took in all resumes; so all
 5 resumes would be forwarded to her.
 6 Depending on who wrote the
 7 ad and what our needs were, some of
 8 our resumes would go to Lori Van
 9 Holmes, who was our west coast
 10 recruiter, some would go to Stephanie
 11 Comeaux.
 12 Q. Who is Stephanie Comeaux?
 13 A. She is based out of
 14 Florida. They were both recruiters
 15 back in 2000; now they're directors
 16 of Family Resources.
 17 So those resumes then would
 18 be reviewed and screened by folks
 19 like Lucy, Stephanie, and Lori, where
 20 they would call the candidate and ask
 21 various questions about those
 22 candidates and interview them.
 23 The next process would
 24 be -- and it all depends on

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1 geography, as far as, you know, where
 2 everybody is at the time, because we
 3 are sort of a fluid company -- would
 4 be getting a partner into a
 5 restaurant so they can see what the
 6 restaurant's like.
 7 Q. When you say a partner into
 8 the restaurant --
 9 A. A future partner. A
 10 partner candidate.
 11 Q. Oh. "Partner" means
 12 paisano partner?
 13 A. Yeah. I'm sorry.
 14 Q. Okay. Please continue.
 15 A. Getting a paisano partner
 16 candidate in a restaurant with a
 17 current paisano partner just to get a
 18 feel for the restaurant, see how that
 19 partner interacts with the team,
 20 making sure that potential partner
 21 has an understanding of what we're
 22 trying to accomplish. Basically
 23 seeing if it's a fit, seeing if
 24 there's a comfort zone.



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1 In that, Lori will ask the
2 paisano partner to test the candidate
3 with Batrus/Thurstone testing, which
4 is basically a personality profile,
5 and it's also -- it measures not raw
6 intellect but more the ability to
7 learn new things.

8 They will do an
9 application. They will do a -- fill
10 out some paperwork to request a
11 background check as far as DMV,
12 credit and things of that nature.
13 That interview is then processed.

14 The paisano partner
15 basically reports back to Lori or
16 Stephanie and says, You know what,
17 here's where we want to go. We want
18 to have this person set up for
19 another interview. And then that
20 person is put in front of a
21 divisional vice president for a
22 personal interview.

23 Q. And then?

24 A. That's the process. The

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1 don't have.

2 It's just the nature of
3 employment base and the nature
4 basically of how well-known we are in
5 the community. So that's one
6 determination of how long it's going
7 to take us to source a good pool of
8 candidates to hire from.

9 The other thing that we
10 have to consider is also the
11 holidays, because most people do not
12 like to change jobs in the end of
13 November, December because it
14 requires training, which is also, you
15 know, something you have to consider
16 if you're -- you got a family. We're
17 going to say, Hey, we need to, you
18 know, fly you to so and so and you
19 can come back the day before
20 Christmas. It's just pretty tough on
21 people.

22 And most people do not
23 change jobs in November, December.
24 Most people change right after

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1 interview is done by the divisional
2 vice president. Depending if there's
3 mult- -- I mean, multiple candidates
4 or what process it's in. It might be
5 the first candidate of ten. You
6 know, we interview everybody
7 available and make decisions as they
8 go.

9 And what you try to do is
10 you try to hire the best candidate
11 for the site and for Buca diBeppo.

12 Q. How long before a new
13 opening is scheduled does Buca begin
14 the interviewing process?

15 A. Again, that's going to
16 depend on the market. There are
17 certain markets that are very tough
18 to staff. An example, like
19 Philadelphia and Washington D.C. take
20 us a little longer to staff then,
21 let's say, a market like Pittsburgh,
22 where I have resumes for job openings
23 I don't have; California, where we
24 have resumes for job openings we

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1 January. So we determine -- I mean,
2 that's how we determine when we're
3 going to hire.

4 But there are drop-dead
5 dates we have to establish on store
6 openings. We do time lines on that,
7 yeah.

8 Q. Is there a typical time
9 line for the hiring process for a
10 paisano partner?

11 A. Yeah. We take the date and
12 we work backwards. So we take an
13 opening date. We work backwards two
14 weeks for training the crew and doing
15 the grand opening, four weeks back
16 from that to do the hiring of the
17 crew, a minimum of seven weeks behind
18 that to train the paisano partner and
19 get them out just in time to do the
20 hiring, and then we take back a
21 30-day period and a 90-day period for
22 sourcing and hiring.

23 Q. And all together, that
24 comes to about what?

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1 A. It comes to about five
2 months, where we have to really start
3 looking.

4 Q. Does that depend on the
5 factors you were discussing before?

6 A. Those are a part of the
7 factors. Some of the other factors
8 is in some restaurants you've got
9 promotable people in the market.

10 Some factors, you've got
11 people that want to move to new
12 markets. An example would be
13 Charlotte, North Carolina, which
14 we're opening in April. Our guy in
15 Pittsburgh is from there and is going
16 to move there. So you have wins like
17 that, where you've got a seasoned
18 individual who wants to go to a new
19 market, and that helps out in the
20 recruiting immensely.

21 Q. I want to make sure I
22 understand what each stage is in the
23 recruiting process, where a decision
24 is made whether to screen an

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1 anything.

2 Q. Who makes the decision
3 whether to screen out an applicant at
4 that stage?

5 A. The person who is actually
6 doing the screening. So it would be
7 the screener, the recruiter, the
8 paisano partner or myself.

9 Q. And --

10 A. And then there's one
11 level -- back in 2000 there was one
12 level above that, in that if a DVP
13 said, on a paisano partner, This is
14 my candidate of choice, we would
15 meet -- they would meet with the COO,
16 and that's -- that would be the final
17 determination.

18 Q. To your knowledge, when the
19 process involved that final step, was
20 there ever an instance where the COO
21 rejected the divisional vice
22 president's candidate of choice?

23 A. I couldn't say for sure.
24 My belief is yes, the COO -- not the

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1 applicant out.

2 A. Okay.

3 Q. Do you understand what I'm
4 asking?

5 A. Absolutely.

6 Q. What is the first stage at
7 which an applicant would be
8 potentially screened out?

9 A. At the screening stage,
10 when a resume is received at the
11 office.

12 Q. This is prior to any --

13 A. The actual screening could
14 be not even a response; meaning, a
15 guy who wants to be a restaurant
16 manager who is currently doing
17 something completely out of the
18 industry who says, I'm going to send
19 you resume. It would be completely
20 screened out; a letter that says, you
21 know, We're not looking for those
22 qualities. And you get that when --
23 when the economy, too, is you get
24 people that are looking to do

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1 CEO but the COO. I believe it
2 happened. I do not know for fact but
3 I believe it did based on --

4 Q. Is it fair to say that it
5 was rare?

6 A. It was fair to say that if
7 you were a divisional vice president
8 and put a bad candidate in front of
9 the COO, your decision-making skills
10 would definitely be at task.

11 Q. Is it fair to say that a
12 divisional vice president who
13 recommends a candidate can reasonably
14 expect that candidate to be approved
15 by the COO?

16 A. Absolutely; otherwise,
17 you'd have to question yourself.

18 Q. So as I understand it, the
19 first step at which a decision is
20 made to screen out an applicant is by
21 somebody other than yourself --

22 A. Absolutely.

23 Q. -- who's in the --
24 reviewing the resume.



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1 A. Absolutely.
2 MR. GERHAN: Objection.
3 Asked and answered.
4 BY MR. GOLDBERG:
5 Q. What is the next step?
6 A. After the screener?
7 Q. Yes.
8 A. It would go to a recruiter.
9 Q. Okay. And what would
10 happen --
11 A. A more in-depth phone
12 interview. Or if it was at a job
13 fair, a personal interview. But the
14 norm is a phone interview.
15 Q. And as a result of the
16 phone interview, another decision
17 would be made whether to screen out
18 an applicant?
19 A. Absolutely.
20 Q. Who would make that
21 decision?
22 A. The recruiter would either
23 screen out or go forward.
24 Q. Would you have any role in

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1 Q. Prior to your interviewing
2 a candidate for a paisano partner, do
3 you have any role in the recruiting
4 process?
5 A. Well, my role as a
6 networker of restaurant people is
7 there. I'm doing -- I do job fairs.
8 So there would be a role there. If
9 we have a job fair, I try to make
10 myself available to be there, to
11 help, you know, resource.
12 But if you mean do I do
13 first interviews, second interviews.
14 Very rarely. But if we are behind,
15 then I will absolutely pick up the
16 phone and call somebody.
17 I think another example
18 was, I got a resume for a paisano
19 partner from a vendor who said, This
20 is a great, great individual that you
21 need to talk to. And so I happened
22 to be in that city that day and I was
23 flying out the next morning, and it
24 didn't make a lot of sense to say,

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1 that decision?
2 A. No.
3 Q. To your knowledge, what are
4 the criteria used by a recruiter,
5 whether to screen out an applicant at
6 that stage?
7 A. Job history is a major part
8 of it. Understanding full service is
9 a major part of it. Where you live
10 is a part of it. Like we said, we
11 like people involved in the community
12 or that know the market that they're
13 going to.
14 A lot of what we call
15 nuts-and-bolts questions as far as
16 how to run P&Ls, how they hire, what
17 they look for, how would they
18 describe themselves. There's a lot
19 of atypical questions in that thing
20 to be consistent. We call them
21 recruiter interviews; they ask a lot
22 of the same questions to every single
23 candidate from a consistency point of
24 view.

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1 Well, I'm going to take this resume
2 and send to it a screener to send to
3 a recruiter for somebody I could
4 speak to in an hour.
5 So, you know, if you're
6 looking for something in stone, I
7 think what we have in stone is to
8 move the applicant through the
9 process as quickly as possible with
10 the utmost respect as possible.
11 Q. So far, when I have been
12 asking you questions and asking if
13 you would play a role, do you
14 understand that my questions have
15 been focusing on your role as the
16 director of -- I mean, the DVP as
17 opposed to the --
18 A. If you mean, do I direct
19 the process? I tell the recruiter,
20 This is what I need.
21 Q. What I mean is that I want
22 to make sure my questions have not
23 been confusing. And I know that a
24 couple of weeks ago you assumed a new

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1 position.

2 A. Mm-hmm.

3 Q. And I want to make sure
4 that you understood that, even though
5 I was using the present tense, I was
6 talking about your DVP job function
7 and not whatever your current job
8 function is.

9 A. My position and
10 responsibility has not changed in
11 that role.

12 Q. Okay.

13 A. As a DVP, I had the
14 ability, because of my reputation and
15 seniority with and tenure with the
16 people that are running our company,
17 to make the final decision on paisano
18 partners. I did not need to go to a
19 COO or anybody else.

20 As a senior vice president,
21 the only thing that's changed is, now
22 any partner that is hired on the east
23 coast of the United States has to go
24 through me first.

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1 paisano partner, right?

2 A. Right. Generally speaking,
3 they go into the restaurant, and, for
4 lack of a better word, hang out and
5 work with the paisano partner just to
6 see what his or her role is, what
7 they do.

8 What we don't want to do is
9 have any candidate be surprised;
10 like, This is your job function, This
11 is what you're going to be expected
12 to do, It is a dinner business, We
13 sell big plates of food, We sell lots
14 of wine. So it gives them a chance
15 to really see the concept.

16 Because as you can imagine,
17 in new markets, many people have
18 never seen a Buca diBeppo much less
19 heard of it and so we've got to get
20 them in the concept so they
21 understood it.

22 Q. It's my understanding that
23 during the process prior to the
24 interview with the divisional vice

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1 Q. In the recruiting process,
2 once you get to the stage where a
3 recruiter determines it's appropriate
4 for you as the DVP to interview a
5 candidate for a paisano partner, at
6 that point is it your understanding
7 as the DVP that the recruiter has
8 determined the candidate appears to
9 have the basic minimum qualifications
10 for the position?

11 A. Yes.

12 Q. And is it your
13 understanding that the recruiter has
14 at that point reviewed the
15 personality profile you mentioned?

16 A. That is doubtful, because
17 generally speaking the personality
18 profile is not done until the
19 candidate goes in for a, what we
20 call, on-the-job interview, and
21 that's when they generally administer
22 the test.

23 Q. The on-the-job interview
24 refers to the interview with the

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1 president, including that portion of
2 the process with the on-the-job
3 interview, the recruiter is the
4 primary contact between the candidate
5 and Buca.

6 A. Yes.

7 Q. And it's my understanding
8 that the recruiter is the one who,
9 after the on-the-job interview with
10 the paisano partner, would contact
11 the divisional vice president to
12 schedule an interview.

13 A. Correct.

14 Q. And it's at that point that
15 you would go right into the interview
16 of the divisional vice president
17 without any intervening steps?

18 A. You might want to clarify
19 that.

20 Q. I want to make sure I'm not
21 missing a step.

22 A. You're not missing a step.
23 I just want to make sure there's not
24 something being read into it. It's



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ORAL DEPOSITION OF JAMES M. COWLER, 1/9/03

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1 real, real simple.

2 Q. Okay.

3 A. The recruiter does all the
4 leg work as far as screen, testing,
5 background, references, in the
6 restaurant, calls the DVP -- and
7 sometimes that's happening while
8 we're setting up that interview --
9 and says, you know, When are you
10 going to be in the area or when can
11 we get you two together, and, Here's
12 the -- you know, you hope, here's
13 five guys and gals that you want to
14 talk to over a two-day period; two,
15 four, six, whatever it may be.

16 Q. To the best of your
17 understanding, why are personality
18 profiles done on candidates for
19 paisano partner positions?

20 A. We do them on all managers,
21 number one.

22 Q. Okay.

23 A. Number two, they are an
24 incredible tool that absolutely

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1 what they've done on the score. So
2 the whole idea is to say, Is this
3 individual similar in thinking and
4 skill set to our best people.

5 Q. When making a decision
6 whether to hire a candidate for a
7 paisano partner, do you review the
8 personality profile results?

9 A. Generally speaking, I do,
10 yes.

11 Q. At what point do you review
12 it?

13 A. Usually after I've been to
14 an interview.

15 Q. Is it fair to say that the
16 purpose of the personality profile is
17 to obtain an objective measure of
18 personality traits concerning an
19 applicant?

20 A. I think it is not fair to
21 say that. I think it's fair to say
22 that it is a standard baseline
23 measurement that you have to -- you
24 have to analyze like anything else.

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1 shows -- and they're not my studies,
2 they're others, and not the company's
3 either -- that they will reduce your
4 management turnover by up to as much
5 as 40 percent.

6 They're also a very good
7 validation tool; meaning, when you
8 spend an hour and a half with
9 somebody, two hours with somebody,
10 these can validate key points you
11 have seen in somebody.

12 Q. As a divisional vice
13 president --

14 A. Can I finish something on
15 that, too?

16 Q. Please.

17 A. The profile is rated, too,
18 based on our performers and how they
19 tested. So that the testing -- the
20 scoring is not rated against an
21 arbitrary number against the law.

22 If you're going for a
23 paisano partner, the benchmark is
24 based on our best paisano partners,

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1 And it is simply a tool, like the
2 interview, like references, like the
3 on-the-job training. They are tools
4 to make you make the best hire. Not
5 one thing will either give you a job
6 or take you out of it.

7 Q. If the personality profile
8 result showed a different conclusion
9 than the one you had reached when
10 interviewing a candidate, what would
11 you do?

12 A. It's -- definitely would
13 raise your eyes to what you are
14 looking at. And we have set up
15 second interviews with paisano
16 partners.

17 Q. Meaning, you've set up
18 second interviews on paisano partners
19 in --

20 A. Let's get together again,
21 let's talk about some things.

22 Q. But I want to make sure I
23 understand the situation when that
24 occurs.

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ORAL DEPOSITION OF JAMES M. COWLER, 1/9/03

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1 Is it a situation where
2 during an interview you formed one
3 impression of a candidate but the
4 personality profile suggested that
5 that conclusion may not be right and
6 therefore you decide to have a second
7 interview?

8 A. I have not experienced that
9 personally very strongly. You know,
10 they're pretty clear and they give
11 you pretty light parameters. But
12 what's nice is they talk to
13 leadership skills, they talk to
14 interpersonal skills and things of
15 that nature.

16 Q. I'm not sure that that was
17 exactly what --

18 A. Meaning --

19 Q. -- I was asking. So I'm
20 going to try --

21 A. Meaning -- okay.

22 Meaning --

23 MR. GERHAN: Wait for --

24 THE WITNESS: Okay. Let

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1 And because I interview an
2 awful lot, I get to see that more
3 often. And frankly, I interview
4 people live more than any of our
5 recruiters do, because a DVP, I'm the
6 guy in the field.

7 They -- while they've got
8 hours of phone time logged, I'm the
9 one who sits right across from
10 somebody. And everybody knows who
11 recruits or works with people, that
12 communication is all not spoken.
13 There's many ways to communicate to
14 people.

15 Q. So if I'm understanding,
16 you wouldn't schedule a second
17 interview based on the personality
18 profile if you determined the person
19 didn't have quality work experience
20 when you interviewed with them;
21 right?

22 A. Right, right.

23 MR. GERHAN: Objection.

24 Asked and answered.

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1 him finish his questions.

2 BY MR. GOLDBERG:

3 Q. You can finish your answer.

4 A. No, no. Go.

5 Q. No. I insist.

6 A. Okay. Meaning, if I
7 decided to turn somebody down and I
8 get a this-guy-walks-on-water
9 personality profile, you know, I
10 don't say, Well, I must have been
11 wrong, and hire the guy. I'm not
12 going to make that kind of decision,
13 because the final decision -- final
14 responsibility falls on my shoulders.

15 Q. In a situation like that,
16 would you consider scheduling a
17 second interview?

18 A. It depends on why I decided
19 to decline the candidate. Again,
20 when I began, I told you some people
21 don't know how to interview. Some
22 people are very nervous. Some people
23 do stupid things when they interview.
24 It's the nature of the beast.

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1 THE WITNESS: Yeah. I

2 mean, we're not going to -- we're not
3 going to set somebody up -- we're not
4 going to spend money testing somebody
5 who doesn't qualify. It costs money
6 to test people. It costs money to do
7 background checks.

8 So if a recruiter says,
9 We're done, then we're done. We're
10 not going to spend an extra hundred
11 dollars just to see. That's what
12 they get paid for; they get paid to
13 recruit and make the best
14 determinations that they can.

15 BY MR. GOLDBERG:

16 Q. So by the time the company
17 decides to do a personality profile
18 of an applicant, the company has
19 already made a determination that the
20 applicant appears to be qualified for
21 the position?

22 A. The company has made a
23 determination to go forward in the
24 interviewing process.



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